

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

V

CHRIS JORDAN WALKER,

Defendant-Appellant.

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UNPUBLISHED

July 5, 2002

No. 230570

Oakland Circuit Court

LC No. 2000-173366-FH

Before: Hood, P.J., and Saad and E. Thomas,\* JJ.

PER CURIAM.

Defendant appeals as of right his conviction by a jury of first-degree home invasion, MCL 750.110a(2), and sentence of six to twenty years' imprisonment. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant and a codefendant entered a house occupied by Elizabeth Kellar and Noah Dolce. They were not given permission to enter. The two beat Dolce with their hands, feet and a baseball bat and threatened Kellar, who locked herself in a bedroom. Defendant beat on the bedroom door with the bat, damaging the door.

Defendant argues that the trial court erroneously scored offense variable (OV) 14, which involves the offender's role in the offense. We disagree.

The trial court gave defendant ten points for being a leader in the offense. Defendant, referring to the trial testimony, argues that the testimony does not show that he was the leader and therefore the court's score is incorrect. At sentencing, the trial court indicated that the information in the PSIR showed that defendant was the instigator of the offense. It appears that it based its score on this finding. The information contained in the PSIR that defendant did not challenge at sentencing supports the court's conclusion that defendant was a leader. In the absence of an objection, the sentencing court is entitled to rely on the PSIR, "which is presumed to be accurate unless the defendant effectively challenges the accuracy of the factual information." *People v Grant*, 455 Mich 221, 232; 565 NW2d 389 (1997). Because defendant did not object to the pertinent information contained in the PSIR and that information supports the judge's scoring of OV 14, defendant has failed to show the trial court erred in scoring the variable.

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\* Circuit judge, sitting on the Court of Appeals by assignment.

Defendant argues that this matter should be remanded to the trial court for consideration whether, in light of a 9-1-1 tape, the verdict is against the great weight of the evidence. We disagree.

Defendant moved before trial to exclude the 9-1-1 tape, and the trial court granted that motion. Because defendant contributed to the alleged error by design or mistake, he may not now complain of any error. *People v Griffin*, 235 Mich App 27, 46; 597 NW2d 176 (1999). Moreover, this issue is not preserved because defendant, despite the trial court's invitation, never properly moved for new trial. *People v Noble*, 238 Mich App 647, 658; 608NW2d 123 (1999). Thus, this Court need not address the issue in the absence of manifest injustice. *Id.*

We find no manifest injustice. Defendant asserts that the information contained in the 9-1-1 tape reveals that Dolce lied about how long defendant and his codefendant beat him. The length of time of an assault is not an element necessary to prove first-degree home invasion. MCL 750.110a(2). Whether Dolce was beaten for a minute or an hour, the prosecution established the elements of the offenses.

Affirmed.

/s/ Harold Hood  
/s/ Henry William Saad  
/s/ Edward M. Thomas